IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Peter C. JOHNSON II et al. §	Confirmation No.:		1025
	§			
Serial No.:	10/765,519 §	Group Art Unit:		2143
	§			
Filed:	01/27/2004 §	Examiner:	Mark D. Fearer	
	§			
For:	Instant Messaging HTTP §	Docket No.:		200206870-1
	Gateway §			

<u>APPEAL BRIEF</u>

Mail Stop Appeal Brief – Patents   Date: July 7, 2008
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

    Appellants hereby submit this Appeal Brief in connection with the above-identified application. A Notice of Appeal was electronically filed on May 5, 2008.

TABLE OF CONTENTS

I. REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, L.P. (HPDC), a Texas Limited Partnership, having its principal place of business in Houston, Texas. HPDC is a wholly owned affiliate of Hewlett-Packard Company (HPC). The Assignment from the inventors to HPDC was recorded on January 27, 2004, at Reel/Frame 014936/0916.

II.   RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals or interferences.

III.   STATUS OF THE CLAIMS

Originally filed claims: 1-27.

Claim cancellations: 4, 13, 23 and 27.

Added claims: None.

Presently pending claims: 1-3, 5-12, 14-22 and 24-26.

Presently appealed claims: 1-3, 5-12, 14-22 and 24-26.

IV.   STATUS OF THE AMENDMENTS

No claims were amended after the final Office action dated March 27, 2008.

V.   SUMMARY OF THE CLAIMED SUBJECT MATTER

Various embodiments of the invention are described below. The scope of disclosure is not limited by the descriptions of the embodiments that follow. Citations to the specification have been provided to demonstrate where support may be found in the specification for various parts of the invention. Additional support may be found elsewhere in the application.

Appellants' contribution is directed to an instant messaging system whereby instant messaging users are able to obtain various types of information from hypertext transfer protocol (HTTP) servers, back-end databases and other data stores. Fig. 1; p. 4, ll. 3-18. Claim 1 is directed to a system that comprises an HTTP gateway (100) adapted to establish a communication link with an HTTP server (300). Fig. 1; p. 5, ll. 11-25. The system also comprises an instant messaging communication subsystem (110, 200) adapted to enable communication between a plurality of instant messaging user interfaces (210) coupled to the instant messaging communication subsystem (110, 200). Fig. 1; p. 4, ll. 12-18. The HTTP gateway (100) establishes a communication link with the instant messaging communication subsystem (110, 200). Fig. 1; p. 4, ll. 3-5. The HTTP gateway (100) is adapted to receive commands from the instant messaging user interfaces (210), convert the commands to HTTP requests, send the HTTP requests to the HTTP server (300), receive HTTP responses to the HTTP requests from the HTTP server (300), and send the HTTP responses to the instant messaging user interfaces (210) via the instant messaging communication subsystem (110, 200). Fig. 1; p. 5, ll. 11-25. The HTTP gateway (100) selects the instant messaging communication subsystem (110, 200) from among a plurality of instant messaging communication subsystems using a configuration file (340) of the HTTP gateway (100) stored on the system. Figs. 1 and 3; p. 8, l. 28 – p. 9, l. 10.

Dependent claim 9 is directed to an HTTP gateway that extracts text portions of the HTTP responses and communicates the text portions to the instant messaging user interfaces. P. 5, ll. 21-25.

Claim 10 is directed to a method that includes transmitting commands from a plurality of instant messaging user interfaces (210) to an HTTP gateway (100) via an instant messaging communication subsystem (110, 200), converting the commands to HTTP requests, transmitting the HTTP requests to an HTTP server (300), generating HTTP responses to the HTTP requests, and transmitting the HTTP responses to the instant messaging user interfaces (210) via the instant messaging communication subsystem (110, 200). Fig. 1; p. 5, ll. 11-25. Transmitting commands from the plurality of instant messaging user interfaces (210) to the HTTP gateway (100) comprises accessing a configuration file (340) to determine with which of a plurality of instant messaging communication subsystems the gateway (100) establishes said communication link. Figs. 1 and 3; p. 8, l. 28 – p. 9, l. 10.

Dependent claim 17 is directed to extracting text portions of the HTTP responses and communicating the text portions to the instant messaging user interfaces. P. 5, ll. 21-25.

Claim 18 is directed to a system that comprises means (p. 5, ll. 11-25) for establishing a communication link between an HTTP gateway (100) and an HTTP server (300). Fig. 1; p. 5, ll. 11-25. The system also includes means (p. 5, ll. 11-25) for transmitting commands from a plurality of instant messaging user interfaces (210) coupled to an instant messaging communication subsystem (110, 200) to the HTTP gateway (100) via at least one instant messaging bot (110). Fig. 1; p. 5, ll. 11-25. The system further comprises means (p. 5, ll. 11-25) for converting the commands to HTTP requests, means (p. 5, ll. 11-25) for transmitting the HTTP requests to the HTTP server, means (p. 5, ll. 11-25) for generating HTTP responses to the HTTP requests and means (p. 5, ll. 11-25) for transmitting the HTTP responses via the at least one instant messaging bot (110) to the instant messaging user interfaces (210). *Id.* The HTTP gateway (100) selects the instant messaging communication subsystem (110, 200) from among a plurality of instant messaging communication subsystems using a configuration file (340) of the HTTP gateway (100) stored on the system. Figs. 1 and 3; p. 8, l. 28 – p. 9, l. 10.

Claim 21 is directed to a gateway (100) that comprises a CPU (310) and a storage device (320) coupled to the CPU (310) and containing executable code (330). Figs. 1 and 3; p. 8, l. 28 – p. 9, l. 10. Upon executing the code (330), the CPU (310) receives commands from instant messaging user interfaces (210), converts the commands to HTTP requests, sends the HTTP requests to an HTTP server (300), receives HTTP responses from the HTTP server (300), and sends the HTTP responses to the instant messaging user interfaces (210) via an instant messaging communication subsystem (110, 200). *Id.* and Fig. 1; p. 5, ll. 11-25. The gateway (100) also includes a configuration file (340), wherein the CPU (310) accesses data in the configuration file (340) to determine with which of a plurality of instant messaging subsystems the gateway (100) establishes a communication link. Figs. 1 and 3; p. 8, l. 2 – p. 9, l. 10. The configuration file (340) is usable to determine to which of a plurality of HTTP servers (300) the gateway (100) sends the HTTP requests. *Id.*

Claim 24 is directed to a storage device (320) containing software (330) that, when executed by a processor (310), causes the processor (310) to receive commands from a plurality of instant messaging user interfaces (210), convert the commands to HTTP requests, transmit the HTTP requests to an HTTP server (300), receive HTTP responses from the HTTP server (300), and transmit the HTTP responses to the instant messaging user interfaces (210) via an instant messaging communication subsystem (110, 200). Fig. 1; p. 5, ll. 11-25; Fig. 3; p. 8, l. 28 – p. 9, l. 10. Receiving commands from or transmitting HTTP responses to the plurality of instant messaging user interfaces (210) comprises accessing a configuration file (340) to determine with which of a plurality of instant messaging communication subsystems to establish a communication link. *Id.*

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-2, 5, 10-11, 18, 21-22 and 24-25 are anticipated by Generous et al. (U.S. Pub. No. 20020120697).

Whether claims 3 and 12 are rendered obvious by Generous in view of Checkoway et al. (U.S. Pub. No. 20020133554).

Whether claims 6 and 14 are rendered obvious by Generous in view of Vicanti et al. (U.S. Pat. No. 6,987,987).

Whether claims 7 and 15 are rendered obvious by Generous in view of Low (U.S. Pub. No. 20020055973).

Whether claims 8 and 16 are rendered obvious by Generous in view of Quinlan (U.S. Pat. No. 6,397,253).

Whether claims 9 and 17 are rendered obvious by Generous in view of Dalal (U.S. Pub. No. 20030014488).

Whether claims 19 and 26 are rendered obvious by Generous in view of Checkoway.

Whether claim 20 is rendered obvious by Generous in view of Klassen et al. (U.S. Pub. No. 20050138124).

VII.   ARGUMENT

A.   Summary of Generous

Generous is directed to a system for delivery of a message to a subscriber over multiple communication channels.   Abstract.   The system allows for accepting a message from a sender and using a subscriber profile to determine a prioritized sequence of channel to deliver the message.   *Id.*   The message is delivered over the communication channels until receipt of the message is acknowledged by the subscriber.   *Id.*   and claims 118-120.

B.   The Examiner Erred in Rejecting Claims 1-2, 5, 10-11, 18, 21-22 and 24-25 Because Generous Fails to Teach All Claim Limitations

Claims 1-2, 5, 10-11, 18, 21-22 and 24-25 stand rejected as allegedly anticipated by Generous.   Appellants traverse this rejection.   Claim 1 is representative of this group of claims.   The grouping should not be construed to mean the patentability of any of the claims may be determined in later actions (*e.g.*, actions before a court) based on the groupings.   Rather, the presumption of 35 USC § 282 shall apply to each of these claims individually.

Generous fails to anticipate claim 1 because Generous fails to teach all limitations recited in claim 1.   Claim 1 requires:

> [W]herein the HTTP gateway selects said instant messaging communication subsystem from among a plurality of instant messaging communication subsystems using a configuration file of the HTTP gateway stored on the system.

The Examiner asserts that Generous teaches a portion of this limitation ("[W]herein the HTTP gateway...subsystems") in claims 118-120 and the rest of this limitation ("...using a configuration ... on the system") in paragraphs [0132]-[0133].   The Examiner is mistaken on both counts.   Claims 118-120 make no mention of the selection of an instant messaging communication subsystem by an HTTP gateway.   Appellants examine the limitations of each of these claims in turn.

Claim 118 teaches a means for gathering notification events from remote resources using tags embedded in messages.   Obviously, the selection of an IM

communication subsystem is not taught by such a limitation. Claim 118 further requires a means for correlating data about the notification events. Again, the selection of an IM communication subsystem is not taught. Finally, claim 118 recites means for continuously sending the messages through a plurality of communication channels prioritized based on the correlating step, until acknowledgement of receipt of the messages by the subscriber. This limitation does not teach the selection of an IM communication subsystem, as required by Appellants' claim 1, but instead teaches that communication channels are prioritized and then messages are continuously sent through several of these channels until the subscriber finally acknowledges receipt of the messages. Selecting an IM communication subsystem is not the same as repeatedly sending messages over multiple channels until an acknowledgement is received. Thus, claim 118 fails to anticipate claim 1.

The limitations of claim 119 are similar to those of claim 118. Claim 119 requires the gathering of notification events from remote resources using tags embedded in messages. Obviously, the gathering of notification events is not the same as the selection of an IM communication subsystem by an HTTP gateway. Claim 119 further requires correlating data about the notification events. Again, the selection of an IM communication subsystem is not taught. Finally, claim 119 requires continuously sending the messages through a plurality of communication channels prioritized based on the correlating step, until [ac]knowledgement of receipt of the messages by the subscriber. As with claim 118, repeatedly sending messages over multiple channels until a response is received is not the same as, nor as elegant as, the selection of an IM communication subsystem by an HTTP gateway. Thus, claim 119 fails to anticipate claim 1.

The limitations of claim 120 are similar to those of claims 118-119. Claim 120 requires means for determining locations of a sender and a subscriber. The determination of sender and subscriber locations is not the same as a selection of an IM communication subsystem by an HTTP gateway. Claim 120 further requires means for prioritizing a plurality of communication channels for optimal delivery of a message based on the locations of the sender and the subscriber as

well as means for delivering the messages through the plurality of communication channels until acknowledgement of receipt of the message by the subscriber. As with claims 118-119, merely prioritizing channels, followed by sending messages over multiple such channels until some type of confirmation is received, is not the same as the selection of an IM communication subsystem by an HTTP gateway. Thus, claim 120 fails to anticipate claim 1.

As mentioned above, the Examiner asserts that Generous teaches the selection of an IM communication subsystem by an HTTP gateway "using a configuration file of the HTTP gateway stored on the system," as required by claim 1, at paragraphs [0132]-[0133]. This is incorrect. These paragraphs teach that "all configuration information for all subsystems is ... stored in a Configuration Database" and that "all subsystems obtain their configuration information from this Configuration Database." In other words, here Generous teaches that all subsystems obtain configuration information from a common database. However, the configuration of a subsystem using a configuration database or file is not the same as the **selection** of an IM communication subsystem by an HTTP gateway using a configuration file of that HTTP gateway. Paragraph [0133] merely lists six different Unix conventions used by daemons when responding to signals, and appears to be irrelevant to claim 1. Thus, paragraphs [0132]-[0133] fail to anticipate any portion of claim 1.

Based on the foregoing, Generous fails to anticipate claim 1. The Examiner thus erred in using Generous to reject claim 1. Because the Examiner erred in rejecting claim 1, the Examiner also erred in rejecting all claims in the grouping of claim 1.

C. The Examiner Erred in Rejecting Claims 3 and 12 as Obvious Under Generous in View of Checkoway Because Checkoway Fails to Satisfy Generous' Deficiencies

Claims 3 and 12 stand rejected as allegedly obvious under Generous in view of Checkoway. Appellants traverse this rejection. Claims 3 and 12 are patentable over Generous because they depend on patentable, independent claims (see subsection (A) above). Checkoway fails to satisfy the deficiencies of

Generous. Thus, the Examiner erred in rejecting claims 3 and 12 using the combination of Generous and Checkoway.

D. The Examiner Erred in Rejecting Claims 6 and 14 as Obvious Under Generous in View of Vacanti Because Vacanti Fails to Satisfy Generous' Deficiencies

Claims 6 and 14 stand rejected as allegedly obvious under Generous in view of Vacanti. Claims 6 and 14 are patentable over Generous because they depend on patentable, independent claims (see subsection (A) above). Vacanti fails to satisfy Generous' deficiencies. Thus, the Examiner erred in rejecting claims 6 and 14 using the combination of Generous and Vacanti.

E. The Examiner Erred in Rejecting Claims 7 and 15 as Obvious Under Generous in View of Low Because Low Fails to Satisfy Generous' Deficiencies

Claims 7 and 15 stand rejected as allegedly obvious under Generous in view of Low. Claims 7 and 15 are patentable over Generous because they depend on patentable, independent claims (see subsection (A) above). Low fails to satisfy Generous' deficiencies. Thus, the Examiner erred in rejecting claims 7 and 15 using the combination of Generous and Low.

F. The Examiner Erred in Rejecting Claims 8 and 16 as Obvious Under Generous in View of Quinlan Because Quinlan Fails to Satisfy Generous' Deficiencies

Claims 8 and 16 stand rejected as allegedly obvious under Generous in view of Quinlan. Claims 8 and 16 are patentable over Generous because they depend on patentable, independent claims (see subsection (A) above). Quinlan fails to satisfy Generous' deficiencies. Thus, the Examiner erred in rejecting claims 8 and 16 using the combination of Generous and Quinlan.

G. The Examiner Erred in Rejecting Claims 9 and 17 as Obvious Under Generous in View of Dalal Because the Combination of Generous and Dalal Fails to Teach All Claim Limitations

Claims 9 and 17 stand rejected as allegedly obvious under Generous in view of Dalal. Claim 9 is representative of this grouping of claims. The grouping should not be construed to mean the patentability of any of the claims may be determined in later actions (*e.g.*, actions before a court) based on the groupings.

Rather, the presumption of 35 USC § 282 shall apply to each of these claims individually.

Claim 9 requires "wherein the HTTP gateway extracts text portions of the HTTP responses and communicates the text portions to the instant messaging user interfaces." The Examiner admits that Generous fails to teach or suggest this limitation and, therefore, turns to Dalal. The Examiner asserts that Dalal, paragraph [0100], teaches this limitation. The Examiner is mistaken. As Examiner quotes, Dalal teaches the **transformation** of a "SOAP request" or "response from the SPCC" **into** a text instant message, whereas the claimed limitation requires the **extraction** of text portions of HTTP responses and the communication of these extracted text portions to the instant messaging user interfaces. Extraction is different from transformation. Thus, the Examiner erred in rejecting claims 9 and 17 using the combination of Generous and Dalal.

H. The Examiner Erred in Rejecting Claims 19 and 26 as Obvious under Generous in View of Checkoway Because Checkoway Fails to Satisfy Generous' Deficiencies

Claims 19 and 26 stand rejected as allegedly obvious under Generous in view of Checkoway. Claims 19 and 26 are patentable over Generous because they depend on patentable, independent claims (see subsection (A) above). Checkoway fails to satisfy Generous' deficiencies. Thus, the Examiner erred in rejecting claims 19 and 26 using the combination of Generous and Checkoway.

I. The Examiner Erred in Rejecting Claim 20 as Obvious under Generous in View of Klassen Because Klassen Fails to Satisfy Generous' Deficiencies

Claim 20 stands rejected as allegedly obvious under Generous in view of Klassen. Claim 20 is patentable over Generous because it depends on a patentable, independent claim (see subsection (A) above). Klassen fails to satisfy Generous' deficiencies. Thus, the Examiner erred in rejecting claim 20 using the combination of Generous and Klassen.

J.   Conclusion

For the reasons stated above, Appellants respectfully submit that the Examiner erred in rejecting all pending claims. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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VIII.   CLAIMS APPENDIX

1.   (Previously presented) A system, comprising:

an HTTP gateway adapted to establish a communication link with an HTTP server; and

an instant messaging communication subsystem adapted to enable communication between a plurality of instant messaging user interfaces coupled to the instant messaging communication subsystem;

wherein, the HTTP gateway establishes a communication link with the instant messaging communication subsystem and wherein the HTTP gateway is adapted to receive commands from the instant messaging user interfaces, convert the commands to HTTP requests, send the HTTP requests to the HTTP server, receive HTTP responses to the HTTP requests from the HTTP server, and send the HTTP responses to the instant messaging user interfaces via the instant messaging communication subsystem;

wherein the HTTP gateway selects said instant messaging communication subsystem from among a plurality of instant messaging communication subsystems using a configuration file of the HTTP gateway stored on the system.

2.   (Previously presented) The system of claim 1, further comprising at least one instant messaging bot, wherein the HTTP gateway is coupled to the instant messaging communication subsystem via the at least one instant messaging bot and the instant messaging bot receives the commands from the instant messaging user interfaces and sends HTTP responses to the user interfaces via the instant messaging communication subsystem.

3.   (Original) The system of claim 1, further comprising a back-end database connected to the HTTP server, wherein the HTTP server is adapted to query the back-end database in preparing the HTTP responses.

4.   (Canceled).

5.   (Previously presented) The system of claim 1, wherein the HTTP gateway further comprises a configuration file, and further wherein the configuration file is usable to determine with which of a plurality of HTTP servers the gateway establishes said communication link.

6.   (Original) The system of claim 1, wherein the HTTP gateway is adapted to map the HTTP requests to specific paths on the HTTP server.

7.   (Original) The system of claim 1, wherein the HTTP gateway polls the instant messaging communication subsystem for the commands from the instant messaging user interfaces.

8.   (Original) The system of claim 1, wherein conversion of commands from instant messaging user interfaces into the HTTP requests comprises creation of form variables by the HTTP gateway based on the commands.

9.   (Original) The system of claim 1, wherein the HTTP gateway extracts text portions of the HTTP responses and communicates the text portions to the instant messaging user interfaces.

10.   (Previously presented) A method, comprising:
      transmitting commands from a plurality of instant messaging user interfaces to an HTTP gateway via an instant messaging communication subsystem;
      converting the commands to HTTP requests;
      transmitting the HTTP requests to an HTTP server;
      generating HTTP responses to the HTTP requests; and
      transmitting the HTTP responses to the instant messaging user interfaces via the instant messaging communication subsystem;

wherein transmitting commands from the plurality of instant messaging user interfaces to the HTTP gateway comprises accessing a configuration file to determine with which of a plurality of instant messaging communication subsystems the gateway establishes said communication link.

11.   (Original) The method of claim 10, wherein transmitting commands from a plurality of instant messaging user interfaces comprises receiving the commands via an instant messaging bot and forwarding the commands from the bot to the HTTP gateway.

12.   (Original) The method of claim 10, wherein generating HTTP responses to the HTTP requests comprises querying a back-end database.

13.   (Canceled).

14.   (Original) The method of claim 10, wherein transmitting the HTTP requests to the HTTP server comprises mapping the HTTP requests to specific paths on the HTTP server.

15.   (Original) The method of claim 10, wherein transmitting commands from a plurality of instant messaging user interfaces to the HTTP gateway comprises polling the instant messaging communication subsystem for the commands.

16.   (Original) The method of claim 10, wherein converting the commands to HTTP requests comprises creating form variables by the HTTP gateway based on the commands.

17.   (Original) The method of claim 10, wherein transmitting the HTTP responses to the instant messaging user interfaces comprises extracting text portions of the HTTP responses and communicating the text portions to the instant messaging user interfaces.

18.   (Previously presented) A system comprising:

    means for establishing a communication link between an HTTP gateway and an HTTP server;

    means for transmitting commands from a plurality of instant messaging user interfaces coupled to an instant messaging communication subsystem to the HTTP gateway via at least one instant messaging bot;

    means for converting the commands to HTTP requests;

    means for transmitting the HTTP requests to the HTTP server;

    means for generating HTTP responses to the HTTP requests; and

    means for transmitting the HTTP responses via the at least one instant messaging bot to the instant messaging user interfaces;

    wherein the HTTP gateway selects said instant messaging communication subsystem from among a plurality of instant messaging communication subsystems using a configuration file of the HTTP gateway stored on the system.

19.   (Original) The system of claim 18, wherein generating HTTP responses to the HTTP requests comprises a means for querying a back-end database.

20.   (Original) The system of claim 18, wherein transmitting the HTTP requests to the HTTP server comprises a means for mapping the HTTP requests to specific paths on the HTTP server.

21.   (Previously presented) A gateway, comprising:

a CPU;

a storage device coupled to the CPU and containing executable code;

wherein, upon executing the code, the processor receives commands from instant messaging user interfaces, converts the commands to HTTP requests, sends the HTTP requests to an HTTP server, receives HTTP responses from the HTTP server, and sends the HTTP responses to the instant messaging user interfaces via an instant messaging communication subsystem;

a configuration file, wherein the CPU accesses data in the configuration file to determine with which of a plurality of instant messaging subsystems the gateway establishes a communication link;

wherein the configuration file is usable to determine to which of a plurality of HTTP servers the gateway sends said HTTP requests.

22.   (Original) A gateway as recited in claim 21, wherein the CPU further comprises executable code for an instant messaging bot, wherein the instant messaging bot receives commands from the instant messaging user interfaces and sends HTTP responses to the users interfaces via the instant messaging communication subsystem.

23.   (Canceled).

24.   (Previously presented) A storage device containing software that, when executed by a processor, causes the processor to:

receive commands from a plurality of instant messaging user interfaces;

convert the commands to HTTP requests;

transmit the HTTP requests to an HTTP server;

receive HTTP responses from the HTTP server; and

transmit the HTTP responses to the instant messaging user interfaces via an instant messaging communication subsystem;

wherein receiving commands from or transmitting HTTP responses to the
plurality of instant messaging user interfaces comprises accessing
a configuration file to determine with which of a plurality of instant
messaging communication subsystems to establish a
communication link.

25.   (Original) A storage device as recited in claim 24, wherein receiving
commands from a plurality of instant messaging user interfaces comprises
receiving the commands via an instant messaging bot.

26.   (Original) A storage device as recited in claim 24, wherein receiving HTTP
responses from the HTTP server comprises querying a back-end database.

27.   (Canceled).

IX.   EVIDENCE APPENDIX

None.

X.   RELATED PROCEEDINGS APPENDIX

None.